



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed:

**WAC 458-16-100 Property tax exemptions, generally, rules of construction**

Date last reviewed: **August 27, 1999**

Reviewer: **Kim M. Qually**

Date current review completed: **October 30, 2002**

Briefly explain the subject matter of the document(s):

**WAC 458-16-100 sets out the rules of construction by which the nonprofit exemption statutes and rules are to be construed. It contains the rules established by the courts and the BTA.**

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:**

YES	NO	
	<b>X</b>	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed?
<b>X</b>		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	<b>X</b>	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?



	<b>X</b>	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)
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If the answer is "yes" to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**The have been a few new court and BTA cases that contain some rules for statutory construction that should be incorporated into this rule, as time allows. In re Sehome Park Care Center, Inc., et al., All Seasons Living Centers, Inc., et al. v. State, 127 Wn.2d 774 (1995) -**

**"A statute is ambiguous if it is susceptible of more than one meaning....**

**When interpreting ambiguous statutory language, a court may resort to aids to construction, including legislative history....**

**In interpreting a statute, a court accords great weight to its contemporaneous construction by the officials charged with its enforcement; this is especially true if the Legislature has silently acquiesced in that construction over a long time."**

**Public Hospital District No. 2 of Snohomish County d/b/a Stevens Healthcare v. DOR, BTA Docket No. 96-61-27 (1999) - "Undefined statutory terms are given that meaning which furthers the legislature's intent, comports with the common understanding, prevents absurdities, and advances justice." State v. Adcock, 36 Wn. App. 699 (1984); and**

**Jubilee Fellowship v. DOR, BTA Docket No. 98-32 (1998) "Statutory language should be interpreted in a manner consistent with the statute's purpose; unlikely, absurd, or strained results are to be avoided; and where a statute is susceptible to two interpretations, one of which may render it unconstitutional, a court will adopt a construction which sustains the statute's constitutionality, if at all possible." - State v. CSG Job Center, 117 Wn.2d 493, (1991).**

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

None

**4. Listing of documents reviewed:**

Statute(s) Implemented:

**RCW 84.36.865 Rules and Regulations;  
RCW 84.08.010 Powers of the department of revenue - General supervision - rules and processes - visitation of counties; and  
RCW 84.08.070 Rules and regulations authorized.**



Interpretive and/or policy statements: **none**

Court Decisions:

**Sehome Park Care Center, Inc., et al., All Seasons Living Centers, Inc., et al. v. State, 127 Wn.2d 774 (1995) -**

"A statute is ambiguous if it is susceptible of more than one meaning....

When interpreting ambiguous statutory language, a court may resort to aids to construction, including legislative history....

In interpreting a statute, a court accords great weight to its contemporaneous construction by the officials charged with its enforcement; this is especially true if the Legislature has silently acquiesced in that construction over a long time."

Board of Tax Appeals Decisions (BTAs): **contain general rules cited in existing rule**

**JUBILEE FELLOWSHIP v. DOR, BTA Docket No. 98-32 (1998)** "Statutory language should be interpreted in a manner consistent with the statute's purpose; unlikely, absurd, or strained results are to be avoided; and where a statute is susceptible to two interpretations, one of which may render it unconstitutional, a court will adopt a construction which sustains the statute's constitutionality, if at all possible." - **State v. CSG Job Center, 117 Wn.2d 493, (1991)**

**PUBLIC HOSPITAL DISTRICT NO. 2 OF SNOHOMISH COUNTY d/b/a STEVENS HEALTHCARE v. DOR, BTA Docket No. 96-61-27 (1999) -**

"Undefined statutory terms are given that meaning which furthers the legislature's intent, comports with the common understanding, prevents absurdities, and advances justice. **State v. Adcock, 36 Wn. App. 699 (1984);**

**REBECCA LYNN COOMER v. King County, BTA Docket 00-027 (2000)**

**DALKENA COMMUNITY CHURCH - NEWPORT v. DOR, BTA Dockets Nos. 55073 - 55079 (2000)**

Appeals Division Decisions (WTDs): **none**

Attorney General Opinions (AGOs): **none**

Other Documents: **none**



**5. Review Recommendation:**

- ☒ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☐ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

**The courts and the BTA have announced some new rules of statutory construction that would add more clarity to the rule. Amending the rule to incorporate these concepts would be a good idea. However, the rule is not so obsolete or inadequate that it requires immediate amendment.**

**6. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

- \_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4